



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PENTICTON & DISTRICT SOCIETY FOR COMMUNITY
LIVING and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on May 3, 2021, wherein the Landlord sought an early end to tenancy pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The hearing of the Landlord's Application was scheduled for 9:30 a.m. on June 6, 2021. Only the Landlord's representatives, C.S., L.W. and B.S. called into the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 10:06 a.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord's representatives and I were the only ones who had called into this teleconference.

As the Tenant did not call in, I considered service of the Landlord's hearing package. B.S. testified that they served the Tenant with the Notice of Hearing and the Application on June 4, 2021 by posting to the door.

Pursuant to the above, and section 90 of the *Residential Tenancy Act*, documents served this way are deemed served three days later; accordingly, I find the Tenant was duly served as of June 7, 2021 and I proceeded with the hearing in their absence.

The Landlord's representatives were cautioned that recordings of the hearing were not permitted pursuant to *Rule 6.11* of the *Residential Tenancy Branch Rules*. They

confirmed their understanding of this requirement and further confirmed they were not making recordings of the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the Landlord and relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Is the Landlord entitled to an early end to this tenancy pursuant to section 56?

Background and Evidence

In support of the Landlord's claim, C.S., testified as follows. He confirmed that the tenancy began July 1, 2012; rent was originally \$340.00 per month in addition to cable. The current amount of rent is \$364.50.

The Landlord sought an early end to tenancy on the basis that the Tenant has been verbally abusive to staff, has been physically threatening and is escalating in his aggression towards staff. C.S. provided the following additional details.

On January 14, 2021 the Tenant stopped C.S. in the hallway and asked for a garage door opener. In response, C.S. informed him he could do so, but there would be a \$50.00 charge. C.S. state that the Tenant became agitated and started swearing at C.S. and threatened C.S. by saying: "you deserve what is coming to you". C.S. stated that he interpreted that comment to be a threat to his personal safety.

C.S. stated that as of April 2021, the Tenant has been walking around with a golf club. C.S. noted that there are no golf greens on the property, and, although the Tenant was a golf pro, this appears to be somewhat of an intimidation tactic.

C.S. that on April 19, 2021, they noticed that there was a queen-sized mattress outside the door leaning up against the garbage bins. As they have video surveillance, they saw the Tenant move it outside, such that they knew that it was his. C.S. confirmed that they gave all tenants notice that there would be a \$100.00 dump fee for oversized items. On April 20, 2021, they gave the Tenant written notice and gave him a couple of

days to dispose of it, otherwise they would charge him \$50.00. They also spoke to him on that day.

On April 21, 2021 the mattress was moved from outside the dumpster to inside the unit right across the hallway and in front of another occupant's door. C.S. then tried to speak to the Tenant about the mattress. The Tenant claimed that the occupant of the unit wanted the mattress. C.S. confirmed he spoke with the occupant and she confirmed that she did not want the mattress.

On April 22, 2021, the mattress had been moved to the stairwell blocking the fire escape. The Landlord moved the mattress outside and then took it to the landfill. Following this, the Landlord then gave the Tenant an invoice for the mattress disposal.

At approximately 12:15 on April 22, 2021, the Tenant knocked on C.S.'s door immediately started yelling, swearing and insulting C.S. and said "you are a f**king pr**k, where is my mattress?" He stepped towards C.S. and called him a "f**king a**hole". He also said "this was the third time you have f**ked me". C.S. stated that the Tenant was very aggressive, and he thought the Tenant was going to hit him. Two maintenance staff witnessed this exchange, and wrote statements, which were provided in evidence.

C.S. stated that the Tenant's aggressive behaviour is escalating and in particular towards C.S., but now it is directed towards other staff. In particular, on April 29, 2021 the Tenant went to the main housing office to dispute the invoice that was given to him on April 22, 2021 regarding the mattress disposal. C.S. wasn't in the office at that time. The Tenant came in as the door was open. C.S. received a call from the staff asking that he attend really quick, but by the time C.S. arrived the Tenant had left.

L.W. also testified. She confirmed that she was at the main office on April 29, 2021. She confirmed that the door was normally locked, although on that date it was open and the Tenant walked into the office. She confirmed that she was on the phone at the time as she could hear the Tenant "losing his mind on M., the receptionist". L.W. heard lots of swearing and yelling. The Tenant was standing outside the reception area, waving his hands, swearing and yelling at M. He was so intimidating in his body language that L.W. did not know what would have happened and both she and M. were terrified. L.W. was so concerned she called the R.C.M.P.

L.W. confirmed that that M. was so upset after the fact that she spoke to the HR department. She was crying and was scared and took the afternoon off.

The Tenant did not attend the hearing to dispute the Landlord's testimony and submissions.

Analysis

A tenancy may be ended early pursuant to section 56 of the *Act*, which provides as follows:

Application for order ending tenancy early

56 (1)A landlord may make an application for dispute resolution to request an order
(a)ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b)granting the landlord an order of possession in respect of the rental unit.

(2)The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(a)the tenant or a person permitted on the residential property by the tenant has done any of the following:

(i)significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;

(ii)seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;

(iii)put the landlord's property at significant risk;

(iv)engaged in illegal activity that

(A)has caused or is likely to cause damage to the landlord's property,

(B)has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(C)has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(v)caused extraordinary damage to the residential property, **and**

(b)it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect.

(3)If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

[emphasis added in bold italics]

This is a two part test and the landlord must prove both parts.

In this case, the Landlord testified that the Tenant has become increasingly aggressive with the Landlord's staff. The Landlord's representatives/witnesses stated that the Tenant yells and screams at the Landlord's staff, calls them names and threatened C.S. This behaviour has increased in severity and caused one staff member to take time off work. The police have also been called due to the Landlord's staff's concerns.

The Tenant was served with Notice of this hearing yet failed to attend. As such, he did not dispute the Landlord's claim or the Landlord's testimony and evidence.

On balance I find the Tenant has significantly interfered with or unreasonably disturbed the Landlords employees, as well as seriously jeopardizing their health and safety.

I accept C.S.'s testimony that they applied for an early end to tenancy pursuant to section 56 because of the Tenant's increasingly aggressive behaviour. I also accept C.S.'s testimony that the Tenant has taken to carrying around a golf club, presumably in an attempt to intimidate others. On balance, I find it would be unreasonable for the Landlord to wait for a hearing on the merits of a Month Notice.

I therefore grant the Landlord's request. The Landlord is granted an Order of Possession which shall be effective immediately upon service on the Tenant. Should the Tenant fail to vacate the rental unit, the Landlord may file and enforce the Order of Possession in the B.C. Supreme Court.

The Landlord has been successful in this Application; as such, and pursuant to sections 38 and 72 of the *Act*, I authorize the Landlord to retain \$100.00 of the Tenant's security deposit as recovery of the filing fee. The balance of the Tenant's security and pet damage deposit (if applicable) shall be held by the Landlord and dealt with in accordance with section 38 of the *Act*.

Conclusion

The Landlord is entitled to an early end to tenancy. The Landlord is granted an Order of Possession and may retain \$100.00 from the Tenant's security deposit as recovery of the filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 11, 2021

Residential Tenancy Branch